

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

HOLMES PROSTHETIC CENTER LLC,

Plaintiff,

v.

ZURICH AMERICAN INSURANCE
COMPANY AND SEDGWICK CLAIMS
MANAGEMENT SERVICES INC.

Defendants.

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CIVIL ACTION NO. 4:20-cv-1633

**DEFENDANT SEDGWICK CLAIMS MANAGEMENT SERVICES INC.'S
NOTICE OF REMOVAL**

Notice is hereby given that, under 28 U.S.C. §§ 1332, 1441, and 1446, Defendant Sedgwick Claims Management Services Inc. (“Sedgwick”) removes this action from the 189th Judicial District Court of Harris County, Texas, to the United States District Court for the Southern District of Texas, Houston Division, and as grounds for removal state as follows:

I. BACKGROUND

1. Plaintiff Holmes Prosthetic Center LLC (“Holmes” or “Plaintiff”) commenced this lawsuit on March 10, 2020 by filing “Plaintiff’s Original Petition” in the 189th Judicial District Court of Harris County, Texas, bearing Cause No. 202016229 (the “State Court Action”).

2. Plaintiff’s Petition names Zurich American Insurance Company (“Zurich”), as defendant.

3. Plaintiff served Zurich with Plaintiff’s Original Petition through CSC on April 9, 2020 and Zurich has not filed its Answer in the State Court.

4. Plaintiff served Sedgwick with Plaintiff’s Original Petition through CSC on April 9, 2020 and Sedgwick has not filed its Answer in the State Court.

5. Sedgwick's removal is timely filed within 30 days of service of the initial pleading filed in this matter. 28 U.S.C. § 1446(b)(2)(B).

II. BASIS FOR REMOVAL

6. Removal is proper under 28 U.S.C. § 1332(a) if there is complete diversity between the parties and the amount in controversy exceeds \$75,000, exclusive of interest, costs and attorneys' fees. These two conditions are satisfied in this matter.

7. There is no dispute that Plaintiff has alleged damages in excess of \$75,000.

8. Because there is complete diversity of citizenship, and the amount in controversy exceeds \$75,000 (exclusive of interest, costs and attorneys' fees), Sedgwick has properly removed this case to federal court.

III. ARGUMENTS AND AUTHORITIES

A. Removal is Proper Because Complete Diversity of Citizenship Exists Between Plaintiff and Defendant – Plaintiff Pleaded False and/or Fraudulent Jurisdictional Facts

9. Plaintiff is a resident of Harris County, Texas.

10. Defendant Zurich is an insurance company organized under the laws of the State of New York and has its principal place of business in Schaumburg, Illinois. Zurich is thus a citizen of New York and Illinois for diversity jurisdiction purposes.

11. Defendant Sedgwick is an insurance company organized under the laws of the State of Illinois and has its principal place of business in Memphis, Tennessee. Sedgwick is thus a citizen of Illinois and Tennessee for diversity jurisdiction purposes.

12. Because Plaintiff is a citizen of Texas, and Defendants Zurich and Sedgwick are citizens of New York and Illinois, and Illinois and Tennessee, respectively. Therefore, complete diversity of citizenship exists, making removal proper.

B. Removal is Proper Because Plaintiff's Claimed Damages Exceed This Court's Jurisdictional Threshold of \$75,000

13. Plaintiff has pleaded that it seeks monetary relief over \$200,000, which clearly is an amount in excess of \$75,000, exclusive of interest, costs and attorneys' fees..¹ Therefore, the jurisdictional threshold is met and removal is proper.

C. Consent to Removal

14. Defendant Zurich has also consented to removal. Therefore, the State Court Lawsuit is properly removed to the Southern District of Texas – Houston Division.

III. CONCLUSION

15. Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice will be filed with the clerk of Harris County, Texas promptly after the filing of this Notice.

16. As required by 28 U.S.C. § 1446(a), and Local Rule 81, a copy of each of the following are attached to (or filed contemporaneously with) this Notice:

- a. All executed process in the case;
- b. Pleadings asserting causes of action (Plaintiff's Original Petition);
- c. All orders signed by the state judge (none);
- d. The docket sheet;
- e. An index of matters being filed;
- f. A list of all counsel of record, including addresses, telephone numbers and parties represented; and
- g. a separately signed disclosure that complies with Federal Rule of Civil Procedure 7.1.

¹ See Plaintiff's Original Petition at p. 2.

17. Pursuant to 28 U.S.C. § 1446(d), written notice of filing of this Notice will be given to all adverse parties promptly after the filing of this Notice.

THEREFORE, Defendant Sedgwick Claims Management Services Inc., pursuant to and in conformance with the requirements of 28 U.S.C. §§ 1332, 1441, and 1446, removes the case styled *Holmes Prosthetic Center LLC v. Sedgwick Claims Management Services Inc.*, Cause No. 2020-16229, from the 189th Judicial District Court of Harris County, Texas to the United States District Court for the Southern District of Texas, Houston Division, and asks that this Court enter any orders as may be necessary and appropriate.

Respectfully submitted,

SHACKELFORD, BOWEN, MCKINLEY & NORTON, LLP

By: /s/ Bruce R. Wilkin

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ATTORNEY FOR DEFENDANT

SEDGWICK CLAIMS MANAGEMENT SERVICES INC.

CERTIFICATE OF SERVICE

I hereby certify a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system and/or Certified Mail, Return Receipt Requested, on May 8, 2020.

Manfred Sternberg
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*Via electronic service
and/or Certified Mail / RRR*

ATTORNEY FOR PLAINTIFF

/s/ Bruce R. Wilkin
Bruce R. Wilkin

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